

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 6275
OFFERED BY MR. RANGEL OF NEW YORK**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE, ETC.

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Alternative Minimum Tax Relief Act of 2008”.

4 (b) **REFERENCE.**—Except as otherwise expressly pro-
5 vided, whenever in this Act an amendment or repeal is
6 expressed in terms of an amendment to, or repeal of, a
7 section or other provision, the reference shall be consid-
8 ered to be made to a section or other provision of the In-
9 ternal Revenue Code of 1986.

10 (c) **TABLE OF CONTENTS.**—The table of contents for
11 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—INDIVIDUAL TAX RELIEF

Sec. 101. Extension of increased alternative minimum tax exemption amount.

Sec. 102. Extension of alternative minimum tax relief for nonrefundable personal credits.

TITLE II—REVENUE PROVISIONS

Sec. 201. Income of partners for performing investment management services treated as ordinary income received for performance of services.

Sec. 202. Limitation of deduction for income attributable to domestic production of oil, gas, or primary products thereof.

Sec. 203. Limitation on treaty benefits for certain deductible payments.

Sec. 204. Returns relating to payments made in settlement of payment card and third party network transactions.

Sec. 205. Application of continuous levy to property sold or leased to the Federal Government.

Sec. 206. Time for payment of corporate estimated taxes.

1 **TITLE I—INDIVIDUAL TAX**
2 **RELIEF**

3 **SEC. 101. EXTENSION OF INCREASED ALTERNATIVE MIN-**
4 **IMUM TAX EXEMPTION AMOUNT.**

5 (a) IN GENERAL.—Paragraph (1) of section 55(d) is
6 amended—

7 (1) by striking “(\$66,250 in the case of taxable
8 years beginning in 2007)” in subparagraph (A) and
9 inserting “(\$69,950 in the case of taxable years be-
10 ginning in 2008)”, and

11 (2) by striking “(\$44,350 in the case of taxable
12 years beginning in 2007)” in subparagraph (B) and
13 inserting “(\$46,200 in the case of taxable years be-
14 ginning in 2008)”.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2007.

18 **SEC. 102. EXTENSION OF ALTERNATIVE MINIMUM TAX RE-**
19 **LIEF FOR NONREFUNDABLE PERSONAL**
20 **CREDITS.**

21 (a) IN GENERAL.—Paragraph (2) of section 26(a) is
22 amended—

1 (1) by striking “or 2007” and inserting “2007,
2 or 2008”, and

3 (2) by striking “2007” in the heading thereof
4 and inserting “2008”.

5 (b) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 December 31, 2007.

8 **TITLE II—REVENUE PROVISIONS**

9 **SEC. 201. INCOME OF PARTNERS FOR PERFORMING IN-** 10 **VESTMENT MANAGEMENT SERVICES TREAT-** 11 **ED AS ORDINARY INCOME RECEIVED FOR** 12 **PERFORMANCE OF SERVICES.**

13 (a) IN GENERAL.—Part I of subchapter K of chapter
14 1 is amended by adding at the end the following new sec-
15 tion:

16 **“SEC. 710. SPECIAL RULES FOR PARTNERS PROVIDING IN-** 17 **VESTMENT MANAGEMENT SERVICES TO** 18 **PARTNERSHIP.**

19 “(a) TREATMENT OF DISTRIBUTIVE SHARE OF
20 PARTNERSHIP ITEMS.—For purposes of this title, in the
21 case of an investment services partnership interest—

22 “(1) IN GENERAL.—Notwithstanding section
23 702(b)—

24 “(A) any net income with respect to such
25 interest for any partnership taxable year shall

1 be treated as ordinary income for the perform-
2 ance of services, and

3 “(B) any net loss with respect to such in-
4 terest for such year, to the extent not dis-
5 allowed under paragraph (2) for such year,
6 shall be treated as an ordinary loss.

7 All items of income, gain, deduction, and loss which
8 are taken into account in computing net income or
9 net loss shall be treated as ordinary income or ordi-
10 nary loss (as the case may be).

11 “(2) TREATMENT OF LOSSES.—

12 “(A) LIMITATION.—Any net loss with re-
13 spect to such interest shall be allowed for any
14 partnership taxable year only to the extent that
15 such loss does not exceed the excess (if any)
16 of—

17 “(i) the aggregate net income with re-
18 spect to such interest for all prior partner-
19 ship taxable years, over

20 “(ii) the aggregate net loss with re-
21 spect to such interest not disallowed under
22 this subparagraph for all prior partnership
23 taxable years.

24 “(B) CARRYFORWARD.—Any net loss for
25 any partnership taxable year which is not al-

1 lowed by reason of subparagraph (A) shall be
2 treated as an item of loss with respect to such
3 partnership interest for the succeeding partner-
4 ship taxable year.

5 “(C) BASIS ADJUSTMENT.—No adjustment
6 to the basis of a partnership interest shall be
7 made on account of any net loss which is not
8 allowed by reason of subparagraph (A).

9 “(D) EXCEPTION FOR BASIS ATTRIB-
10 UTABLE TO PURCHASE OF A PARTNERSHIP IN-
11 TEREST.—In the case of an investment services
12 partnership interest acquired by purchase, para-
13 graph (1)(B) shall not apply to so much of any
14 net loss with respect to such interest for any
15 taxable year as does not exceed the excess of—

16 “(i) the basis of such interest imme-
17 diately after such purchase, over

18 “(ii) the aggregate net loss with re-
19 spect to such interest to which paragraph
20 (1)(B) did not apply by reason of this sub-
21 paragraph for all prior taxable years.

22 Any net loss to which paragraph (1)(B) does
23 not apply by reason of this subparagraph shall
24 not be taken into account under subparagraph
25 (A).

1 “(E) PRIOR PARTNERSHIP YEARS.—Any
2 reference in this paragraph to prior partnership
3 taxable years shall only include prior partner-
4 ship taxable years to which this section applies.

5 “(3) NET INCOME AND LOSS.—For purposes of
6 this section—

7 “(A) NET INCOME.—The term ‘net in-
8 come’ means, with respect to any investment
9 services partnership interest, for any partner-
10 ship taxable year, the excess (if any) of—

11 “(i) all items of income and gain
12 taken into account by the holder of such
13 interest under section 702 with respect to
14 such interest for such year, over

15 “(ii) all items of deduction and loss so
16 taken into account.

17 “(B) NET LOSS.—The term ‘net loss’
18 means with respect to such interest for such
19 year, the excess (if any) of the amount de-
20 scribed in subparagraph (A)(ii) over the amount
21 described in subparagraph (A)(i).

22 “(b) DISPOSITIONS OF PARTNERSHIP INTERESTS.—

23 “(1) GAIN.—Any gain on the disposition of an
24 investment services partnership interest shall be

1 treated as ordinary income for the performance of
2 services.

3 “(2) LOSS.—Any loss on the disposition of an
4 investment services partnership interest shall be
5 treated as an ordinary loss to the extent of the ex-
6 cess (if any) of—

7 “(A) the aggregate net income with respect
8 to such interest for all partnership taxable
9 years, over

10 “(B) the aggregate net loss with respect to
11 such interest allowed under subsection (a)(2)
12 for all partnership taxable years.

13 “(3) DISPOSITION OF PORTION OF INTEREST.—
14 In the case of any disposition of an investment serv-
15 ices partnership interest, the amount of net loss
16 which otherwise would have (but for subsection
17 (a)(2)(C)) applied to reduce the basis of such inter-
18 est shall be disregarded for purposes of this section
19 for all succeeding partnership taxable years.

20 “(4) DISTRIBUTIONS OF PARTNERSHIP PROP-
21 erty.—In the case of any distribution of property
22 by a partnership with respect to any investment
23 services partnership interest held by a partner—

24 “(A) the excess (if any) of—

1 “(i) the fair market value of such
2 property at the time of such distribution,
3 over

4 “(ii) the adjusted basis of such prop-
5 erty in the hands of the partnership,
6 shall be taken into account as an increase in
7 such partner’s distributive share of the taxable
8 income of the partnership (except to the extent
9 such excess is otherwise taken into account in
10 determining the taxable income of the partner-
11 ship),

12 “(B) such property shall be treated for
13 purposes of subpart B of part II as money dis-
14 tributed to such partner in an amount equal to
15 such fair market value, and

16 “(C) the basis of such property in the
17 hands of such partner shall be such fair market
18 value.

19 Subsection (b) of section 734 shall be applied with-
20 out regard to the preceding sentence.

21 “(5) APPLICATION OF SECTION 751.—In apply-
22 ing section 751(a), an investment services partner-
23 ship interest shall be treated as an inventory item.

24 “(c) INVESTMENT SERVICES PARTNERSHIP INTER-
25 EST.—For purposes of this section—

1 “(1) IN GENERAL.—The term ‘investment serv-
2 ices partnership interest’ means any interest in a
3 partnership which is held by any person if such per-
4 son provides (directly or indirectly) a substantial
5 quantity of any of the following services with respect
6 to the assets of the partnership in the conduct of the
7 trade or business of providing such services:

8 “(A) Advising as to the advisability of in-
9 vesting in, purchasing, or selling any specified
10 asset.

11 “(B) Managing, acquiring, or disposing of
12 any specified asset.

13 “(C) Arranging financing with respect to
14 acquiring specified assets.

15 “(D) Any activity in support of any service
16 described in subparagraphs (A) through (C).

17 For purposes of this paragraph, the term ‘specified
18 asset’ means securities (as defined in section
19 475(c)(2) without regard to the last sentence there-
20 of), real estate, commodities (as defined in section
21 475(e)(2))), or options or derivative contracts with
22 respect to securities (as so defined), real estate, or
23 commodities (as so defined).

24 “(2) EXCEPTION FOR CERTAIN CAPITAL INTER-
25 ESTS.—

1 “(A) IN GENERAL.—If—

2 “ (i) a portion of an investment serv-
3 ices partnership interest is acquired on ac-
4 count of a contribution of invested capital,
5 and

6 “ (ii) the partnership makes a reason-
7 able allocation of partnership items be-
8 tween the portion of the distributive share
9 that is with respect to invested capital and
10 the portion of such distributive share that
11 is not with respect to invested capital,

12 then subsection (a) shall not apply to the por-
13 tion of the distributive share that is with re-
14 spect to invested capital. An allocation will not
15 be treated as reasonable for purposes of this
16 subparagraph if such allocation would result in
17 the partnership allocating a greater portion of
18 income to invested capital than any other part-
19 ner not providing services would have been allo-
20 cated with respect to the same amount of in-
21 vested capital.

22 “(B) SPECIAL RULE FOR DISPOSITIONS.—
23 In any case to which subparagraph (A) applies,
24 subsection (b) shall not apply to any gain or
25 loss allocable to invested capital. The portion of

1 any gain or loss attributable to invested capital
2 is the proportion of such gain or loss which is
3 based on the distributive share of gain or loss
4 that would have been allocable to invested cap-
5 ital under subparagraph (A) if the partnership
6 sold all of its assets immediately before the dis-
7 position.

8 “(C) INVESTED CAPITAL.—For purposes
9 of this paragraph, the term ‘invested capital’
10 means, the fair market value at the time of con-
11 tribution of any money or other property con-
12 tributed to the partnership.

13 “(D) TREATMENT OF CERTAIN LOANS.—

14 “(i) PROCEEDS OF PARTNERSHIP
15 LOANS NOT TREATED AS INVESTED CAP-
16 ITAL OF SERVICE PROVIDING PARTNERS.—
17 For purposes of this paragraph, an invest-
18 ment services partnership interest shall not
19 be treated as acquired on account of a con-
20 tribution of invested capital to the extent
21 that such capital is attributable to the pro-
22 ceeds of any loan or other advance made or
23 guaranteed, directly or indirectly, by any
24 partner or the partnership.

1 “(ii) LOANS FROM NONSERVICE PRO-
2 VIDING PARTNERS TO THE PARTNERSHIP
3 TREATED AS INVESTED CAPITAL.—For
4 purposes of this paragraph, any loan or
5 other advance to the partnership made or
6 guaranteed, directly or indirectly, by a
7 partner not providing services to the part-
8 nership shall be treated as invested capital
9 of such partner and amounts of income
10 and loss treated as allocable to invested
11 capital shall be adjusted accordingly.

12 “(d) OTHER INCOME AND GAIN IN CONNECTION
13 WITH INVESTMENT MANAGEMENT SERVICES.—

14 “(1) IN GENERAL.—If—

15 “(A) a person performs (directly or indi-
16 rectly) investment management services for any
17 entity,

18 “(B) such person holds a disqualified in-
19 terest with respect to such entity, and

20 “(C) the value of such interest (or pay-
21 ments thereunder) is substantially related to
22 the amount of income or gain (whether or not
23 realized) from the assets with respect to which
24 the investment management services are per-
25 formed,

1 any income or gain with respect to such interest
2 shall be treated as ordinary income for the perform-
3 ance of services. Rules similar to the rules of sub-
4 section (c)(2) shall apply where such interest was ac-
5 quired on account of invested capital in such entity.

6 “(2) DEFINITIONS.—For purposes of this sub-
7 section—

8 “(A) DISQUALIFIED INTEREST.—The term
9 ‘disqualified interest’ means, with respect to
10 any entity—

11 “(i) any interest in such entity other
12 than indebtedness,

13 “(ii) convertible or contingent debt of
14 such entity,

15 “(iii) any option or other right to ac-
16 quire property described in clause (i) or
17 (ii), and

18 “(iv) any derivative instrument en-
19 tered into (directly or indirectly) with such
20 entity or any investor in such entity.

21 Such term shall not include a partnership inter-
22 est and shall not include stock in a taxable cor-
23 poration.

24 “(B) TAXABLE CORPORATION.—The term
25 ‘taxable corporation’ means—

1 “(i) a domestic C corporation, or

2 “(ii) a foreign corporation subject to a
3 comprehensive foreign income tax.

4 “(C) INVESTMENT MANAGEMENT SERV-
5 ICES.—The term ‘investment management serv-
6 ices’ means a substantial quantity of any of the
7 services described in subsection (c)(1) which are
8 provided in the conduct of the trade or business
9 of providing such services.

10 “(D) COMPREHENSIVE FOREIGN INCOME
11 TAX.—The term ‘comprehensive foreign income
12 tax’ means, with respect to any foreign corpora-
13 tion, the income tax of a foreign country if—

14 “(i) such corporation is eligible for the
15 benefits of a comprehensive income tax
16 treaty between such foreign country and
17 the United States, or

18 “(ii) such corporation demonstrates to
19 the satisfaction of the Secretary that such
20 foreign country has a comprehensive in-
21 come tax.

22 “(e) REGULATIONS.—The Secretary shall prescribe
23 such regulations as are necessary or appropriate to carry
24 out the purposes of this section, including regulations to—

1 “(1) prevent the avoidance of the purposes of
2 this section, and

3 “(2) coordinate this section with the other pro-
4 visions of this subchapter.

5 “(f) CROSS REFERENCE.—For 40 percent no fault
6 penalty on certain underpayments due to the avoidance
7 of this section, see section 6662.”.

8 (b) APPLICATION TO REAL ESTATE INVESTMENT
9 TRUSTS.—

10 (1) IN GENERAL.—Subsection (c) of section
11 856 is amended by adding at the end the following
12 new paragraph:

13 “(8) EXCEPTION FROM RECHARACTERIZATION
14 OF INCOME FROM INVESTMENT SERVICES PARTNER-
15 SHIP INTERESTS.—

16 “(A) IN GENERAL.—Paragraphs (2), (3),
17 and (4) shall be applied without regard to sec-
18 tion 710 (relating to special rules for partners
19 providing investment management services to
20 partnership).

21 “(B) SPECIAL RULE FOR PARTNERSHIPS
22 OWNED BY REITS.—Section 7704 shall be ap-
23 plied without regard to section 710 in the case
24 of a partnership which meets each of the fol-
25 lowing requirements:

1 “(i) Such partnership is treated as
2 publicly traded under section 7704 solely
3 by reason of interests in such partnership
4 being convertible into interests in a real es-
5 tate investment trust which is publicly
6 traded.

7 “(ii) 50 percent or more of the capital
8 and profits interests of such partnership
9 are owned, directly or indirectly, at all
10 times during the taxable year by such real
11 estate investment trust (determined with
12 the application of section 267(e)).

13 “(iii) Such partnership meets the re-
14 quirements of paragraphs (2), (3), and (4)
15 (applied without regard to section 710).”.

16 (2) CONFORMING AMENDMENT.—Paragraph (4)
17 of section 7704(d) is amended by inserting “(deter-
18 mined without regard to section 856(e)(8))” after
19 “856(e)(2)”.

20 (c) IMPOSITION OF PENALTY ON UNDERPAY-
21 MENTS.—

22 (1) IN GENERAL.—Subsection (b) of section
23 6662 is amended by inserting after paragraph (5)
24 the following new paragraph:

1 “(6) The application of subsection (d) of section
2 710 or the regulations prescribed under section
3 710(e) to prevent the avoidance of the purposes of
4 section 710.”.

5 (2) AMOUNT OF PENALTY.—

6 (A) IN GENERAL.—Section 6662 is amend-
7 ed by adding at the end the following new sub-
8 section:

9 “(i) INCREASE IN PENALTY IN CASE OF PROPERTY
10 TRANSFERRED FOR INVESTMENT MANAGEMENT SERV-
11 ICES.—In the case of any portion of an underpayment to
12 which this section applies by reason of subsection (b)(6),
13 subsection (a) shall be applied with respect to such portion
14 by substituting ‘40 percent’ for ‘20 percent’.”.

15 (B) CONFORMING AMENDMENTS.—Sub-
16 paragraph (B) of section 6662A(e)(2) is
17 amended—

18 (i) by striking “section 6662(h)” and
19 inserting “subsection (h) or (i) of section
20 6662”, and

21 (ii) by striking “GROSS VALUATION
22 MISSTATEMENT PENALTY” in the heading
23 and inserting “CERTAIN INCREASED UN-
24 DERPAYMENT PENALTIES”.

1 (3) REASONABLE CAUSE EXCEPTION NOT AP-
2 PLICABLE.—Subsection (c) of section 6664 is
3 amended—

4 (A) by redesignating paragraphs (2) and
5 (3) as paragraphs (3) and (4), respectively,

6 (B) by striking “paragraph (2)” in para-
7 graph (4), as so redesignated, and inserting
8 “paragraph (3)”, and

9 (C) by inserting after paragraph (1) the
10 following new paragraph:

11 “(2) EXCEPTION.—Paragraph (1) shall not
12 apply to any portion of an underpayment to which
13 this section applies by reason of subsection (b)(6).”.

14 (d) CONFORMING AMENDMENTS.—

15 (1) Subsection (d) of section 731 is amended by
16 inserting “section 710(b)(4) (relating to distribu-
17 tions of partnership property),” before “section
18 736”.

19 (2) Section 741 is amended by inserting “or
20 section 710 (relating to special rules for partners
21 providing investment management services to part-
22 nership)” before the period at the end.

23 (3) Paragraph (13) of section 1402(a) is
24 amended—

1 (A) by striking “other than guaranteed”
2 and inserting “other than—

3 “(A) guaranteed”,

4 (B) by striking the semi-colon at the end
5 and inserting “, and”, and

6 (C) by adding at the end the following new
7 subparagraph:

8 “(B) any income treated as ordinary in-
9 come under section 710 received by an indi-
10 vidual who provides investment management
11 services (as defined in section 710(d)(2));”.

12 (4) Paragraph (12) of section 211(a) of the So-
13 cial Security Act is amended—

14 (A) by striking “other than guaranteed”
15 and inserting “other than—

16 “(A) guaranteed”,

17 (B) by striking the semi-colon at the end
18 and inserting “, and”, and

19 (C) by adding at the end the following new
20 subparagraph:

21 “(B) any income treated as ordinary in-
22 come under section 710 of the Internal Revenue
23 Code of 1986 received by an individual who
24 provides investment management services (as
25 defined in section 710(d)(2) of such Code);”.

1 (5) The table of sections for part I of sub-
2 chapter K of chapter 1 is amended by adding at the
3 end the following new item:

 “Sec. 710. Special rules for partners providing investment management services
 to partnership.”.

4 (e) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as otherwise pro-
6 vided in this subsection, the amendments made by
7 this section shall apply to taxable years ending after
8 June 18, 2008.

9 (2) PARTNERSHIP TAXABLE YEARS WHICH IN-
10 CLUDE EFFECTIVE DATE.—In applying section
11 710(a) of the Internal Revenue Code of 1986 (as
12 added by this section) in the case of any partnership
13 taxable year which includes June 18, 2008, the
14 amount of the net income referred to in such section
15 shall be treated as being the lesser of the net income
16 for the entire partnership taxable year or the net in-
17 come determined by only taking into account items
18 attributable to the portion of the partnership taxable
19 year which is after such date.

20 (3) DISPOSITIONS OF PARTNERSHIP INTER-
21 ESTS.—Section 710(b) of the Internal Revenue Code
22 of 1986 (as added by this section) shall apply to dis-
23 positions and distributions after June 18, 2008.

1 (4) OTHER INCOME AND GAIN IN CONNECTION
2 WITH INVESTMENT MANAGEMENT SERVICES.—Sec-
3 tion 710(d) of such Code (as added by this section)
4 shall take effect on June 18, 2008.

5 (5) PUBLICLY TRADED PARTNERSHIPS.—For
6 purposes of applying section 7704, the amendments
7 made by this section shall apply to taxable years be-
8 ginning after December 31, 2010.

9 **SEC. 202. LIMITATION OF DEDUCTION FOR INCOME AT-**
10 **TRIBUTABLE TO DOMESTIC PRODUCTION OF**
11 **OIL, GAS, OR PRIMARY PRODUCTS THEREOF.**

12 (a) DENIAL OF DEDUCTION FOR MAJOR INTE-
13 GRATED OIL COMPANIES FOR INCOME ATTRIBUTABLE TO
14 DOMESTIC PRODUCTION OF OIL, GAS, OR PRIMARY
15 PRODUCTS THEREOF.—

16 (1) IN GENERAL.—Subparagraph (B) of section
17 199(c)(4) (relating to exceptions) is amended by
18 striking “or” at the end of clause (ii), by striking
19 the period at the end of clause (iii) and inserting “,
20 or”, and by inserting after clause (iii) the following
21 new clause:

22 “(iv) in the case of any major inte-
23 grated oil company (as defined in section
24 167(h)(5)(B)), the production, refining,
25 processing, transportation, or distribution

1 of oil, gas, or any primary product thereof
2 during any taxable year described in sec-
3 tion 167(h)(5)(B).”.

4 (2) PRIMARY PRODUCT.—Section 199(c)(4)(B)
5 is amended by adding at the end the following flush
6 sentence:

7 “For purposes of clause (iv), the term ‘primary
8 product’ has the same meaning as when used in
9 section 927(a)(2)(C), as in effect before its re-
10 peal.”.

11 (b) LIMITATION ON OIL RELATED QUALIFIED PRO-
12 Duction ACTIVITIES INCOME FOR TAXPAYERS OTHER
13 THAN MAJOR INTEGRATED OIL COMPANIES.—

14 (1) IN GENERAL.—Section 199(d) is amended
15 by redesignating paragraph (9) as paragraph (10)
16 and by inserting after paragraph (8) the following
17 new paragraph:

18 “(9) SPECIAL RULE FOR TAXPAYERS WITH OIL
19 RELATED QUALIFIED PRODUCTION ACTIVITIES IN-
20 COME.—

21 “(A) IN GENERAL.—If a taxpayer (other
22 than a major integrated oil company (as defined
23 in section 167(h)(5)(B))) has oil related quali-
24 fied production activities income for any taxable
25 year beginning after 2009, the amount of the

1 deduction under subsection (a) shall be reduced
2 by 3 percent of the least of—

3 “(i) the oil related qualified produc-
4 tion activities income of the taxpayer for
5 the taxable year,

6 “(ii) the qualified production activities
7 income of the taxpayer for the taxable
8 year, or

9 “(iii) taxable income (determined
10 without regard to this section).

11 “(B) OIL RELATED QUALIFIED PRODUC-
12 TION ACTIVITIES INCOME.—The term ‘oil re-
13 lated qualified production activities income’
14 means for any taxable year the qualified pro-
15 duction activities income which is attributable
16 to the production, refining, processing, trans-
17 portation, or distribution of oil, gas, or any pri-
18 mary product thereof during such taxable
19 year.”.

20 (2) CONFORMING AMENDMENT.—Section
21 199(d)(2) (relating to application to individuals) is
22 amended by striking “subsection (a)(1)(B)” and in-
23 serting “subsections (a)(1)(B) and (d)(9)(A)(iii)”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2008.

4 **SEC. 203. LIMITATION ON TREATY BENEFITS FOR CERTAIN**
5 **DEDUCTIBLE PAYMENTS.**

6 (a) IN GENERAL.—Section 894 (relating to income
7 affected by treaty) is amended by adding at the end the
8 following new subsection:

9 “(d) LIMITATION ON TREATY BENEFITS FOR CER-
10 TAIN DEDUCTIBLE PAYMENTS.—

11 “(1) IN GENERAL.—In the case of any deduct-
12 ible related-party payment, any withholding tax im-
13 posed under chapter 3 (and any tax imposed under
14 subpart A or B of this part) with respect to such
15 payment may not be reduced under any treaty of the
16 United States unless any such withholding tax would
17 be reduced under a treaty of the United States if
18 such payment were made directly to the foreign par-
19 ent corporation.

20 “(2) DEDUCTIBLE RELATED-PARTY PAY-
21 MENT.—For purposes of this subsection, the term
22 ‘deductible related-party payment’ means any pay-
23 ment made, directly or indirectly, by any person to
24 any other person if the payment is allowable as a de-
25 duction under this chapter and both persons are

1 members of the same foreign controlled group of en-
2 tities.

3 “(3) FOREIGN CONTROLLED GROUP OF ENTI-
4 TIES.—For purposes of this subsection—

5 “(A) IN GENERAL.—The term ‘foreign
6 controlled group of entities’ means a controlled
7 group of entities the common parent of which
8 is a foreign corporation.

9 “(B) CONTROLLED GROUP OF ENTITIES.—
10 The term ‘controlled group of entities’ means a
11 controlled group of corporations as defined in
12 section 1563(a)(1), except that—

13 “(i) ‘more than 50 percent’ shall be
14 substituted for ‘at least 80 percent’ each
15 place it appears therein, and

16 “(ii) the determination shall be made
17 without regard to subsections (a)(4) and
18 (b)(2) of section 1563.

19 A partnership or any other entity (other than a
20 corporation) shall be treated as a member of a
21 controlled group of entities if such entity is con-
22 trolled (within the meaning of section
23 954(d)(3)) by members of such group (includ-
24 ing any entity treated as a member of such
25 group by reason of this sentence).

1 “(4) FOREIGN PARENT CORPORATION.—For
2 purposes of this subsection, the term ‘foreign parent
3 corporation’ means, with respect to any deductible
4 related-party payment, the common parent of the
5 foreign controlled group of entities referred to in
6 paragraph (3)(A).

7 “(5) REGULATIONS.—The Secretary may pre-
8 scribe such regulations or other guidance as are nec-
9 essary or appropriate to carry out the purposes of
10 this subsection, including regulations or other guid-
11 ance which provide for—

12 “(A) the treatment of two or more persons
13 as members of a foreign controlled group of en-
14 tities if such persons would be the common par-
15 ent of such group if treated as one corporation,
16 and

17 “(B) the treatment of any member of a
18 foreign controlled group of entities as the com-
19 mon parent of such group if such treatment is
20 appropriate taking into account the economic
21 relationships among such entities.”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 this section shall apply to payments made after the date
24 of the enactment of this Act.

1 **SEC. 204. RETURNS RELATING TO PAYMENTS MADE IN SET-**
2 **TLEMENT OF PAYMENT CARD AND THIRD**
3 **PARTY NETWORK TRANSACTIONS.**

4 (a) IN GENERAL.—Subpart B of part III of sub-
5 chapter A of chapter 61 is amended by adding at the end
6 the following new section:

7 **“SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN**
8 **SETTLEMENT OF PAYMENT CARD AND THIRD**
9 **PARTY NETWORK TRANSACTIONS.**

10 “(a) IN GENERAL.—Each payment settlement entity
11 shall make a return for each calendar year setting forth—

12 “(1) the name, address, and TIN of each par-
13 ticipating payee to whom one or more payments in
14 settlement of reportable transactions are made, and

15 “(2) the gross amount of the reportable trans-
16 actions with respect to each such participating
17 payee.

18 Such return shall be made at such time and in such form
19 and manner as the Secretary may require by regulations.

20 “(b) PAYMENT SETTLEMENT ENTITY.—For pur-
21 poses of this section—

22 “(1) IN GENERAL.—The term ‘payment settle-
23 ment entity’ means—

24 “(A) in the case of a payment card trans-
25 action, the merchant acquiring bank, and

1 “(B) in the case of a third party network
2 transaction, the third party settlement organi-
3 zation.

4 “(2) MERCHANT ACQUIRING BANK.—The term
5 ‘merchant acquiring bank’ means the bank or other
6 organization which has the contractual obligation to
7 make payment to participating payees in settlement
8 of payment card transactions.

9 “(3) THIRD PARTY SETTLEMENT ORGANIZA-
10 TION.—The term ‘third party settlement organiza-
11 tion’ means the central organization which has the
12 contractual obligation to make payment to partici-
13 pating payees of third party network transactions.

14 “(4) SPECIAL RULES RELATED TO INTER-
15 MEDIARIES.—For purposes of this section—

16 “(A) AGGREGATED PAYEES.—In any case
17 where reportable transactions of more than one
18 participating payee are settled through an inter-
19 mediary—

20 “(i) such intermediary shall be treated
21 as the participating payee for purposes of
22 determining the reporting obligations of
23 the payment settlement entity with respect
24 to such transactions, and

1 “(ii) such intermediary shall be treat-
2 ed as the payment settlement entity with
3 respect to the settlement of such trans-
4 actions with the participating payees.

5 “(B) ELECTRONIC PAYMENT
6 FACILITATORS.—In any case where an elec-
7 tronic payment facilitator or other third party
8 makes payments in settlement of reportable
9 transactions on behalf of the payment settle-
10 ment entity, the return under subsection (a)
11 shall be made by such electronic payment
12 facilitator or other third party in lieu of the
13 payment settlement entity.

14 “(c) REPORTABLE TRANSACTION.—For purposes of
15 this section—

16 “(1) IN GENERAL.—The term ‘reportable trans-
17 action’ means any payment card transaction and any
18 third party network transaction.

19 “(2) PAYMENT CARD TRANSACTION.—The term
20 ‘payment card transaction’ means any transaction in
21 which a payment card is accepted as payment.

22 “(3) THIRD PARTY NETWORK TRANSACTION.—
23 The term ‘third party network transaction’ means
24 any transaction which is settled through a third
25 party payment network.

1 “(d) OTHER DEFINITIONS.—For purposes of this
2 section—

3 “(1) PARTICIPATING PAYEE.—

4 “(A) IN GENERAL.—The term ‘partici-
5 pating payee’ means—

6 “(i) in the case of a payment card
7 transaction, any person who accepts a pay-
8 ment card as payment, and

9 “(ii) in the case of a third party net-
10 work transaction, any person who accepts
11 payment from a third party settlement or-
12 ganization in settlement of such trans-
13 action.

14 “(B) EXCLUSION OF FOREIGN PERSONS.—
15 To the extent provided by the Secretary in reg-
16 ulations or other guidance, such term shall not
17 include any foreign person.

18 “(C) INCLUSION OF GOVERNMENTAL
19 UNITS.—The term ‘person’ includes any govern-
20 mental unit (and any agency or instrumentality
21 thereof).

22 “(2) PAYMENT CARD.—The term ‘payment
23 card’ means any card which is issued pursuant to an
24 agreement or arrangement which provides for—

25 “(A) one or more issuers of such cards,

1 “(B) a network of persons unrelated to
2 each other, and to the issuer, who agree to ac-
3 cept such cards as payment, and

4 “(C) standards and mechanisms for set-
5 tling the transactions between the merchant ac-
6 quiring banks and the persons who agree to ac-
7 cept such cards as payment.

8 The acceptance as payment of any account number
9 or other indicia associated with a payment card shall
10 be treated for purposes of this section in the same
11 manner as accepting such payment card as payment.

12 “(3) THIRD PARTY PAYMENT NETWORK.—The
13 term ‘third party payment network’ means any
14 agreement or arrangement—

15 “(A) which involves the establishment of
16 accounts with a central organization for the
17 purpose of settling transactions between per-
18 sons who establish such accounts,

19 “(B) which provides for standards and
20 mechanisms for settling such transactions,

21 “(C) which involves a substantial number
22 of persons unrelated to such central organiza-
23 tion who provide goods or services and who
24 have agreed to settle transactions for the provi-

1 sion of such goods or services pursuant to such
2 agreement or arrangement, and

3 “(D) which guarantees persons providing
4 goods or services pursuant to such agreement
5 or arrangement that such persons will be paid
6 for providing such goods or services.

7 Such term shall not include any agreement or ar-
8 rangement which provides for the issuance of pay-
9 ment cards.

10 “(e) EXCEPTION FOR DE MINIMIS PAYMENTS BY
11 THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third
12 party settlement organization shall not be required to re-
13 port any information under subsection (a) with respect to
14 third party network transactions of any participating
15 payee if the amount which would otherwise be reported
16 under subsection (a)(2) with respect to such transactions
17 does not exceed \$10,000 and the aggregate number of
18 such transactions does not exceed 200.

19 “(f) STATEMENTS TO BE FURNISHED TO PERSONS
20 WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—
21 Every person required to make a return under subsection
22 (a) shall furnish to each person with respect to whom such
23 a return is required a written statement showing—

1 “(1) the name, address, and phone number of
2 the information contact of the person required to
3 make such return, and

4 “(2) the gross amount of the reportable trans-
5 actions with respect to the person required to be
6 shown on the return.

7 The written statement required under the preceding sen-
8 tence shall be furnished to the person on or before Janu-
9 ary 31 of the year following the calendar year for which
10 the return under subsection (a) was required to be made.

11 “(g) REGULATIONS.—The Secretary may prescribe
12 such regulations or other guidance as may be necessary
13 or appropriate to carry out this section, including rules
14 to prevent the reporting of the same transaction more
15 than once.”.

16 (b) PENALTY FOR FAILURE TO FILE.—

17 (1) RETURN.—Subparagraph (B) of section
18 6724(d)(1) is amended—

19 (A) by striking “or” at the end of clause
20 (xx),

21 (B) by redesignating the clause (xix) that
22 follows clause (xx) as clause (xxi),

23 (C) by striking “and” at the end of clause
24 (xxi), as redesignated by subparagraph (B) and
25 inserting “or”, and

1 (D) by adding at the end the following:

2 “(xxii) section 6050W (relating to re-
3 turns to payments made in settlement of
4 payment card transactions), and”.

5 (2) STATEMENT.—Paragraph (2) of section
6 6724(d) is amended by striking “or” at the end of
7 subparagraph (BB), by striking the period at the
8 end of the subparagraph (CC) and inserting “, or”,
9 and by inserting after subparagraph (CC) the fol-
10 lowing:

11 “(DD) section 6050W(c) (relating to re-
12 turns relating to payments made in settlement
13 of payment card transactions).”.

14 (c) APPLICATION OF BACKUP WITHHOLDING.—
15 Paragraph (3) of section 3406(b) is amended by striking
16 “or” at the end of subparagraph (D), by striking the pe-
17 riod at the end of subparagraph (E) and inserting “, or”,
18 and by adding at the end the following new subparagraph:

19 “(F) section 6050W (relating to returns
20 relating to payments made in settlement of pay-
21 ment card transactions).”.

22 (d) CLERICAL AMENDMENT.—The table of sections
23 for subpart B of part III of subchapter A of chapter 61
24 is amended by inserting after the item relating to section
25 6050V the following:

“Sec. 6050W. Returns relating to payments made in settlement of payment card transactions.”.

1 (e) EFFECTIVE DATE.—

2 (1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the amendments made by
4 this section shall apply to returns for calendar years
5 beginning after December 31, 2010.

6 (2) APPLICATION OF BACKUP WITHHOLDING.—

7 The amendment made by subsection (c) shall apply
8 to amounts paid after December 31, 2011.

9 **SEC. 205. APPLICATION OF CONTINUOUS LEVY TO PROP-**
10 **ERTY SOLD OR LEASED TO THE FEDERAL**
11 **GOVERNMENT.**

12 (a) IN GENERAL.—Paragraph (3) of section 6331(h)
13 is amended by striking “goods” and inserting “property”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall apply to levies approved after the date
16 of the enactment of this Act.

17 **SEC. 206. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
18 **TAXES.**

19 (a) REPEAL OF ADJUSTMENT FOR 2012.—Subpara-
20 graph (B) of section 401(1) of the Tax Increase Preven-
21 tion and Reconciliation Act of 2005 is amended by striking
22 the percentage contained therein and inserting “100 per-
23 cent”.

1 (b) MODIFICATION OF ADJUSTMENT FOR 2013.—
2 The percentage under subparagraph (C) of section 401(1)
3 of the Tax Increase Prevention and Reconciliation Act of
4 2005 in effect on the date of the enactment of this Act
5 is increased by 59.5 percentage points.

